IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

MONDAY, THE 22ND JANUARY 2007 / 2ND MAGHA 1928

WP(C).No. 1714 of 2007(D)

PETITIONERS:
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1. **K. SUDHAKARAN, AGENERAL MERCHANT**
   SHOP NO.6/203, PUTHIYAKAVU,
   MAVELIKARA.

2. **REGHUNATHAKUMAR, MAHALEKSHMI STORES,**
   PUTHIYAKAVU, MAVELIKARA.

BY ADV. SRI.R.RAJASEKHARAN PILLAI
SMT.SABINA JAYAN
SRI.M.S.NISHAD

RESPONDENTS:
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1. **THE STATE OF KERALA REPRESENTED BY**
   THE CHIEF SECRETARY, GOVT.SECRETARIAT,
   THIRUVANANTHAPURAM.

2. **THE DEPUTY SUPERINTENDENT OF POLICE,**
   CHENGANNUR.

3. **THE CIRCLE INSPECTOR OF POLICE,**
   MAVELIKARA.

4. **THE KERALA HEAD LOAD WORKERS WELFARE**
   BOARD'S LOCAL COMMITTEE REPRESENTED BY ITS
   CHAIRMAN MITCHEL JUNCTION, MAVELIKARA.

5. **THE ASSISTANT LABOUR OFFICER AND**
   REGISTERING AUTHORITY HEAD LOAD WORKERS
   RULES, MAVELIKARA.

6. **THE DISTRICT LABOUR OFFICER,**
   ALAPPUZHA.

**7. THE AITUC MAVELIKARA UNIT,
MITCHLE JUNCTION, REPRESENTED BY ITS
PRESIDENT KARUNAKRA KURUP.**

**BY ADV. SRI.RENIL ANTO, SC, KHLWWB FOR R4
SRI.R.KRISHNA RAJ FOR R7
GOVT.PLEADER SRI.P.A.SALIM**

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 22/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE JUDGMENT DATED 13.12.2006 IN W.A.NO.548/2006 OF THIS HON'BLE COURT.

EXT.P2: COPY OF THE JUDGMENT DATED 23.3.2006 IN W.P.(C).NO.5531/2006 OF THIS HON'BLE COURT.

EXT.P3: COPY OF THE ORDER DATED 10.5.2006 TO THE 5TH RESPONDENT.

EXT.P4: COPY OF THE APPEAL DATED 3.6.2006 AGAINST P3 BEFORE THE 6TH RESPONDENT, WITH POSTAL RECEIPT AND ACKNOWLEDGMENT CARD.

EXT.P5: COPY OF THE REQUEST LETTER DATED 13.1.2007 TO THE 2ND RESPONDENT.

EXT.P6: COPY OF THE REQUEST LETTER DATED 13.1.2007 TO THE 3RD RESPONDENT.

EXT.P7: COPY OF THE GAZETTE NOTIFICATION NO.G.O.(RT)NO.210/2005 DATED 29.1.2005.

EXT.P8: COPY OF THE PUBLIC NOTICE DATED 17.1.2007 ISSUED BY THE KERALA VYAPARI VYAVASYA EKOPANA SAMITHI, MAVELIKARA.

EXT.P9: COPY OF THE REPRESENTATION DATED 19.1.2007 SUBMITTED BY THE PETITIONERS BEFORE THE 3RD RESPONDENT.

/TRUE COPY/

J.B.KOSHY & K.P.BALACHANDRAN,JJ.

W.P.(C)No.1714 OF 2007 (D)

Dated 22nd January, 2007

JUDGMENT

Koshy,J.

This is a petition for police protection. Petitioners are merchants and their shops are situated in an area where scheme under the Head load workers Act is notified. Case of the petitioners is that they have permanent workers, that the 1st petitioner has got five workers and 2nd petitioner has got three workers, that they are registered under the Shops and Commercial Establishment Act and that they themselves can do the loading and unloading works in the shop as an incidental work. The allegation of petitioners are that the 7th respondent union are obstructing the work, demanding that they can alone do the work because they are the registered workers under the Head load worker's Act. This Court earlier directed the petitioner to register the employees under the Head load workers scheme, if they have got permanent employees as attached workers as the area in question is a scheme covered area. Though they applied for registration that was refused by Ext.P3 simply because the Head load Workers Committee

objected the same. The above reason stated is that Ext.P3 order is illegal. Hence, we set aside Ext.P3 order because the authority has not applied its mind at all in granting such an order. If there are no attached workers and loading and unloading works are to be done, they can avail service of the employees from the pool of the registered workers. Question to be considered by the registering authority is whether petitioner has got permanent workers if they can do the work of loading and unloading works also. If so, registration cannot be denied. Ext.P3 is quashed. Police protection should be granted so long as loading and unloading works are carried out by the permanent workers whose application for registration are to be considered. This is without prejudice to the rights of the contesting unions in opposing the application for registration on any legal ground. The above application should be considered and decided after hearing all concerned including the 7th respondent. Police should see that meaningful and effective protection should be given for conducting of the shops so long as no outsiders other than the permanent workers who applied for registration are employed for loading and unloading works. Registering authority shall dispose of the matter by a

speaking order within one month from the date of receipt of the copy of this judgment. With the above observations this writ petition is disposed of.

J.B.KOSHY
JUDGE

K.P.BALACHANDRAN
JUDGE

prp